

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FFC PARTNERSHIP L.P., FINE FAMILY)
LIMITED PARTNERSHIP, MF)
INVESTMENT FUND, LP, and FINE)
CAPITAL ASSOCIATES, L.P.,)

Plaintiffs,)

v.)

ROSEN CAPITAL PARTNERS, LP,)
ROSEN CAPITAL MANAGEMENT,)
LLC, KYLE ROSEN AND PANOPTIC)
FUND ADMINISTRATION LLC,)

Defendants.)

Civil Action No. 08-1691

District Judge Nora Barry Fischer
Magistrate Judge Lisa Pupo Lenihan

MEMORANDUM ORDER

Plaintiffs' Complaint was removed to this Court from the Court of Common Pleas of Allegheny County on December 10, 2008 and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges' Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges. Defendants Rosen Capital Management, LLC, Panoptic Fund Administration, LLC, and Rosen Capital Partners, LP, filed a Motion to Compel Arbitration and to Dismiss on January 12, 2009 (Doc. No. 4).

The Magistrate Judge's Report and Recommendation (Doc. No. 25) filed on August 31, 2009, recommended that the motion be granted in part and denied in part. (Doc. No. 4) be . Service was made on all counsel of record. The parties were informed that in accordance


with the Magistrate Judges' Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrate Judges, that they had ten (10) days to file any objections. Plaintiffs filed Objections to the Report and Recommendation (Doc. No. 26) on September 10, 2009. This Court has reviewed the Plaintiffs' Objections and notes that Plaintiffs have raised issues previously raised in their Brief in Opposition and Sur-Reply to Defendants' Motion to Compel Arbitration and to Dismiss and considered by the Magistrate Judge. Plaintiffs also requested oral argument on the Objections. The Court finds that oral argument on the Objections is unnecessary. After review of the pleadings and the documents in the case, together with the Report and Recommendation and the objections thereto, the following Order is entered:

AND NOW, this 21st day of September 2009;

IT IS HEREBY ORDERED that Defendants' Motion to Compel Arbitration and to Dismiss (Doc. No. 4) is **GRANTED IN PART AND DENIED IN PART**. The Motion to Compel Arbitration is **GRANTED** and the Plaintiffs are **ORDERED** to arbitrate against Defendants.

IT IS FURTHER ORDERED that the Motion to Dismiss is **DENIED**. The above captioned case is **STAYED** and the clerk shall mark the case **ADMINISTRATIVELY CLOSED**.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 25) of Magistrate Judge Lenihan, dated August 31, 2009, is adopted as the Opinion of the Court.


The Honorable Nora Barry Fischer
United States District Judge

cc: The Honorable Lisa Pupo Lenihan
United States Magistrate Judge

All counsel of record
Via electronic filing